

## DRAINAGE DISTRICTS—AUTHORIZING CREATION AND MAINTENANCE OF.

S. B. No. 67.]

CHAPTER 110.

An Act to authorize the commissioners' courts of the several counties to create and establish drainage districts which may be included within one or more adjoining counties; to construct canals and waterways for the purpose of drainage; to order elections for the purpose of voting and authorizing the issuance of bonds, and to issue the same in payment for such improvements; the levying and collection of taxes for the discharge and cancellation thereof; the election of trustees for such districts; granting the powers of condemnation; and generally authorizing the commissioners' courts and district trustees to do such things as shall be necessary to the establishing and maintaining of good and efficient drainage systems in such districts, or in aid thereof, as is authorized by the constitution and the provisions of this Act; and declaring an emergency.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. The county commissioners' court of the several counties of this State may hereafter establish drainage districts in their respective counties, and such districts may be included in any county, or in any number of adjoining counties, and may or may not include within their boundaries and limits, villages, towns and municipal corporations or portions thereof. Such districts when so established may, under the direction of the commissioners' court, or the district trustees construct and maintain canals, drains and waterways for the purpose of drainage, or in aid thereof, to hold elections for the purpose of voting bonds and to issue bonds in payment therefor, which shall never be in amount greater than that of one-fourth of the assessed value of the real property of said district; and generally to do such things as shall be necessary to the completion and maintaining of a good and efficient drainage system in such district or districts, as authorized by the Constitution of the State of Texas and the provisions of this Act. This Act shall be cumulative of and additional to all other general laws upon the subject of drainage, not in conflict herewith.

SECTION 2. That upon the petition of fifty, or a majority of the resident property tax payers of any county in this State, whose land shall be affected thereby, to the County Commissioners' Court of any county, the Commissioners Court shall thereafter have power at any regular or special session to create a drainage district within such county; and when the same shall appear to be for the public health, benefit, or utility of such proposed drainage district, may authorize the said district or districts to construct and maintain drainage canals and ditches with laterals, spurs, branches, inlets and outlets within such proposed district or districts; provided, that in all cases of such proposed improvements, provisions shall be made for the disposal, final discharge and outlet of all waters that may be collected within such canal, streams, ditches and drains to be so made, constructed or improved.

SECTION 3. Such petition shall be filed with the clerk of the county court of such county and shall set forth the necessity of such proposed drainage district, including the proposed boundaries thereof, the initial point, route and terminous of such drains and the probable cost thereof. The Commissioners' Court shall at its first session, either regular or special, after the filing thereof, or if the same be filed during the session,

at once appoint a jury of three freeholders of the county, not kin to any of the petitioners therein, who shall constitute a jury of view. Such jury of view shall meet at a time and place specified by said court, and shall at such time as directed proceed with the County Surveyor, or any other civil engineer appointed by the said court, to make an accurate survey of the proposed district and drain course for the purpose of ascertaining the advisability of such improvements and estimating the cost thereof. And said jury of view and engineers shall make report thereof to the said Commissioners' Court with a profile and map of the territory included, showing each parcel of land benefited and to be affected by such improvements within such proposed district, except that when a town, village or municipal corporation or a part thereof be included, any recognized map thereof may be filed, giving the number of estimated acres in each tract and the names of the owners thereof as far as they be able to ascertain by reasonable inquiry and search of the public records. And to further report as to the public utility and advisability of such proposed improvements. Such report together with the maps and records thereof, shall be filed in the office of the clerk of the County Court and become a public record therein and shall be preserved as such.

SECTION 4. All resident land owners of such proposed district shall be notified by the clerk of said court in writing or otherwise, as may be directed by the County Commissioners' Court, of the substance of the report of said jury of view, and shall be notified ten days in advance of the time and place when the same shall be acted upon by said Commissioners' Court, except that when a town or municipal corporation, or a portion thereof, is included in such district, publication for five days prior to the ten days of notice herein required, in any newspaper published therein, shall be deemed sufficient notice thereof to all persons residing in said town, village or municipal corporation, of such action. And all persons and corporations whose lands may be affected by such improvements shall have the right to appear before said Commissioners Court and to be heard upon all matters pertaining thereto, and if dissatisfied with the action taken by said Commissioners Court, shall file objections thereto in writing which shall become a part of the records in such case, and a failure to make such objections or a failure to make a claim in writing for damages or compensation shall be deemed and held as a waiver of right and of all objections thereto. At the time set for the hearing of said petition and report of jury of view, the Commissioners Court shall hear and determine all remonstrances and objections thereto, and if it be found that such proposed improvements shall be for the public health, convenience, benefit or utility of such proposed district, they shall enter an order on the minutes establishing the same, either as specified in the petition or in the report, and shall order said district to be established and the improvements to be constructed according thereto, or according to a further and more fully particularized report and survey to be made thereafter under the direction of said court, or the board may dismiss the petition and tax the costs already accrued against the said petitioners, in whole or in part, as the justice of the case may require, and the collection thereof may be enforced as hereafter provided for as to other and additional costs.

SECTION 5. Before said viewers and engineer shall proceed to act as such, they shall take and sign the following oath before any officer authorized to administer oaths, to-wit: "I do solemnly swear that I will view the proposed drainage district now directed by the order of the Commissioners Court without favor or affection, malice or hatred, to the best of my knowledge skill and ability, so help me God" and said oath shall be filed with the records of said case.

SECTION 6. Any persons or corporation aggrieved by the final order of the Commissioners Court made in said proceedings and entered upon the record thereof, may appeal to County Court of such county by filing written notice of said appeal stating fully the reasons for such appeal, and filing therewith an appeal bond with two or more good sureties within ten days thereafter, to be approved by the County Clerk, conditioned that he will prosecute such appeal to effect and will pay all costs that may be adjudged against him in said court. Such appeal shall be heard and determined upon the following issues, to-wit:

1st. Whether said proposed drainage improvement district will be conducive to the public health, utility or benefit of said district.

2nd. Whenever such proposed improvements are practicable.

3rd. The question of the sufficiency of damages, if any, allowed to such appellant by the Commissioners' Court. If more than one person appeal to the County Court, all of said cases may be consolidated and tried together and the right of each party separately determined and the verdict and judgment therein shall be a final determination thereof except as to the damages.

All appeals in such cases shall have precedence in the right to trial, and shall be tried and determined as all other civil cases in said court and may be tried in vacation or term time.

In the trial of such cases so appealed from the order of the Commissioners' Court the burden of proof shall rest upon the complainant.

SECTION 7. When it shall have been determined by the Commissioners Court, after all appeals and protests have been finally disposed of, except as to damages, that such drainage districts shall be established and such proposed improvements made the proposition shall be submitted to a vote of the property tax payers who are qualified electors and actual residents within the limits of such proposed district, and if such proposition shall receive a two-thirds vote in favor thereof of all such drainage improvements according to such proposition shall be made and the bonds thereof issued as authorized by this Act under the further direction of the County Commissioners Court.

SECTION 8. The Commissioners Court shall determine the time and place of holding the elections and the manner of holding the same shall be governed by the laws of the State regulating general or special elections.

SECTION 9. The proposition to be submitted for the issuance of bonds for such improvements shall specify the purpose for which the same are to be issued, the amount thereof, the time payable and rate of interest. All ballots to be voted in said election shall have written or printed thereon the words, "For the drainage and bonds" and "Against the drainage and bonds."

SECTION 10. Whenever any such district drainage bonds shall have

been issued, the Commissioners Court shall levy and cause to be assessed and collected improvement taxes upon all property, whether real, personal, mixed or otherwise, subject to taxation, within the limits of such district, and sufficient in amount to pay the interest on such bonds as it shall fall due, together with an additional amount to be annually placed in a sinking fund, sufficient to discharge and redeem said bonds at their maturity.

SECTION 11. Whenever any such improvements shall drain a public road, or in any way improve better or benefit the same, the jury of viewers shall estimate the value of such proposed improvements to such public road, in a stated sum or amount, and such sum or sums when approved and allowed by the County Commissioners Court shall be paid by the county and such amount shall not be included in the estimated total cost of such work for which bonds are to be issued by such district. Any estimated sum properly chargeable against a public road shall be paid out of the road fund or any other fund of such county available for road purposes.

SECTION 12. Whenever the course or route of such drainage improvements properly extend into or through two or more counties the Commissioners' Courts of the several counties shall act in harmony, each furnishing the other with copies of reports, petitions, estimates and other data; and may arrange for a joint jury of view, survey, etc., but in all such cases the final consummation of the proposition shall be determined by the respective orders, proceedings and results of each county interested; provided, that whenever the natural and most practical course for a final outlet and discharge of any such drainage district lies within or passes through one or more adjoining counties the Commissioners' Court of the county or counties making such drainage improvements shall have the power and they are hereby authorized to purchase or condemn the right of drainage way into or through such adjoining county or counties by the usual mode of condemnation proceedings authorized by the general laws of the State, and shall construct and complete the drainage outlet and discharge contemplated by the Act; provided, however, that the lands and territories in such adjoining county or counties and adjacent to such drainage improvements so constructed and made by the initial counties shall never be made to artificially drain therein, unless they shall pay to said initial county its just and rightful proposition of the cost and maintenance thereof.

SECTION 13. It will be the duty of every person or corporation whose lands are benefited and through whose land any such drainage ditch canal or improvements are constructed to keep same reasonably free upon such lands, and are hereby strictly prohibited from in any manner obstructing the same or causing the obstructing of the same, so as to prevent free flow of waters therein. For the purpose of preventing and removing obstructions therein a special fund may be created by said district to be expended for such purposes under the direction of the trustees of said district, or the County Commissioners' Court; and such fund may be created in such manner as the residents of said districts may lawfully direct.

SECTION 14. The jury of viewers shall each receive the sum of three dollars per day and the engineer not less than five dollars per day com-

pensation, as may be fixed by the Commissioners' Court, while actually engaged on said work.

SECTION 15. All just sums, charges, costs and expenses of the jury of viewers, engineer, election and the proceedings generally, not otherwise herein provided for, shall be paid in the following manner. If the proposition be carried at the election, the same shall be paid out of the proceeds of the sale of the bonds so voted. If the proposition be lost at the election, then by an order of the Commissioners' Court the total amount of such costs and expenses shall be paid by the county out of the road and bridge fund, or if there be no road and bridge fund, out of the general funds of said county.

SECTION 16. Any and all bonds issued under the provisions of this act shall not extend in point of time beyond forty years; shall not draw a rate of interest greater than five and one-half per cent; shall not be sold for less than par and shall be registered by the Comptroller and approved by the Attorney General of the State of Texas.

SECTION 17. Whenever a drainage district shall have been created and the bonds voted, under the provisions of this Act, there may be elected by the resident electors of such district, a board of trustees consisting of three qualified electors who are property owners therein, and such board shall thereafter be elected biennially so long as may be required, and shall serve without compensation. The duties of such board of trustees shall be to look after the drainage interests of such district generally, and to aid and to advise the Commissioners' Court in regard thereto. If advisable, the sinking fund shall from time to time be invested in such bonds of the State, counties, municipalities and districts of the State as shall be approved by the Attorney General.

SECTION 18. Whenever a drainage district shall have been created and the bonds thereof voted for proposed drainage improvements therein as hereinbefore provided, the district trustees shall, if the same has not then already been done, cause to be prepared by a competent civil engineer a complete tabulated statement, schedule and specifications of the kind, character and amount of construction, excavation and other work to be done, and all such other matters as shall be necessary for full and intelligent estimates and bids thereon by contractors or others desiring to bid for the work and construction thereof; and thereafter, the district trustees shall advertise for bids upon the whole of said work or any part thereof, and shall let contracts therefor in the manner required by general laws, subject, however, to the approval of the county judge of said county. No money shall be paid out of the county treasury for such construction work nor for any other purpose in connection therewith except upon warrants drawn by the district trustees and countersigned by the county judge of such county. All moneys and bonds of such district or districts shall be in the keeping of and handled by the county treasurer of such county or counties wherein such district or districts shall be located.

Provided, however, that if the property holders or a majority thereof of any such district shall express their desire that the county commissioners of such county shall perform the duties and services above provided to be performed by the trustees, then the County Commissioners' Court of such county shall do and perform all the things in connection

therewith necessary to be performed for the purpose or purposes of carrying into effect the object and intent of this Act.

SECTION 19. The right of eminent domain is hereby conferred upon the drainage district, acting through its trustees or Commissioners' Court, as the case may be, for the purposes herein indicated, and condemnation and all proceedings in relation thereto shall be had and conducted as provided by the railroad laws of this State. Such district may through its trustees sue and be sued, and all courts in this State shall take judicial notice of any and all drainage districts established under this Act. Each district shall be named or numbered or both by the County Commissioners' Court and shall be so designated upon the public record of such county or counties, and the name or number or both thereof shall be designated upon the bonds of such district when issued.

SECTION 20. The fact that there is no adequate remedy for draining the lands of the coast country; and that the wet season now being on affords a most favorable opportunity for effective work of the juries of views and engineers, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this Act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The enrolled bill shows that the foregoing act passed the Senate, no vote given; and passed the House of Representatives, no vote given.]

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 15th day of April, A. D. 1905, but was not signed by him nor returned to the house in which it originated with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—O. K. SHANNON, Secretary of State.]

Takes effect 90 days after adjournment.

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#### TAXES—IMPOSING OCCUPATION TAX ON PERSONS DEALING IN UNEARNED WAGES OF ANOTHER.

H. B. No. 466.]

CHAPTER 111.

An Act imposing an annual occupation tax upon persons engaged in the business of purchasing or procuring assignments or transfers of wages not earned or not due and payable at the date of such assignment or transfer, and regulating those engaged in such business.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* There is hereby imposed an annual occupation tax of five thousand dollars for State purposes upon every person who, in his own behalf or as agent for another, shall engage in the business of taking, purchasing or procuring assignments or transfers of wages not earned or not due and payable at the date of such assignment or transfer, whether such assignment or transfer is made absolutely, conditionally or as security, for each separate county in which such person may engage in such business either in his own behalf or as agent of another.